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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/779,916

02/17/2004

William C. Cortner JR.

506474-0008

9008

27910

7590

06/01/2006

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EXAMINER

SHAW, ELIZABETH ANNE

ART UNIT

PAPER NUMBER

3644

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/779,916

Applicant(s)

CORTNER, WILLIAM C.

Examiner

Elizabeth A. Shaw

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Feb. 21, 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cortner, Jr. (3,902,461) in view of Mowbray et al (4,074,659). Cortner, Jr. Shows a method of making and apparatus of an animal insecticide applicator comprising a bag 22 for holding a quantity of insecticide 14, the bag having a top (unnumbered), two sides 24, 28 and a bottom 26, a first and second tie rope 70 stitched to and extending at least partially and in fact entirely across the length of a tube (unnumbered) extending the width of the bag 54, see fig. 10, the tie rope 70 having a length of rope hanging free at each end of the bag 54 for use in hanging the bag from an overhead support. The bag 111 including a coupler 126, see fig. 14, for joining the bag 111 in a side by side relationship, see fig. 15 to another bag 113. The bag 22 having a plurality of straps 36, see fig. 3a, along the top of the bag 22 through which the support or rope is inserted. Cortner, Jr. does not show the use of a rigid tubular support. Mowbray et al teach an insecticide applicator having a bag 1, filled with a quantity of insecticide 2, and having an rigid tubular support 4 coupled with and extending across the top 9 of the bag 1. With respect to claims 1 and 6, to use the rigid tubular support of Mowbray et al with the applicator of Cortner, Jr. would have been obvious to one skilled in the art in order to

provide extra rigidity to the applicator to ensure maximum coverage and dispersal when in use. With respect to claims 4 and 9 to use the coupler of Cortner, Jr. Fig. 15 with the bag combination of Cortner, Jr. Fig. 3a and Mowbray et al would have been obvious to one skilled in the art in order to keep the opposite sides 24, 28 together to more efficiently dispense the insecticide within the apparatus.

### ***Response to Arguments***

Applicant's arguments filed Feb. 21, 2006 have been fully considered but they are not persuasive. Applicant claims the use of two ropes while citing that the prior art of Cortner, Jr. discloses only one. However, applicant then further states in claim 3 that one continuous length of rope is used. Therefore the prior art rejection still stands. The ropes of both applicant and Cortner, Jr. can be said to have a first portion and a second portion and are therefore two ropes according to claim 3. Further in regards to claims 2 and 8, Cortner, Jr. states that the rope 70 is secured/stitched to the bag in a desired longitudinal position, col. 7, lines 22-26. It is noted that the crossover stitching arrangement of fig. 3 may hold some allowable subject matter.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

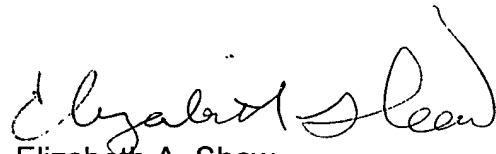
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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Shaw whose telephone number is 571-272-6908. The examiner can normally be reached on M-Th 10:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Elizabeth A. Shaw  
Examiner  
Art Unit 3644

May 15, 2006

  
TERI PHAM LUU  
SUPERVISORY  
PRIMARY EXAMINER